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06 UNITED STATES DISTRICT COURT
07 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

08 ZI XIANG ZHEN,)
09) CASE NO. C11-0964-JLR
Petitioner,)
10 v.)
11) REPORT AND RECOMMENDATION
ERIC HOLDER, JR., Attorney General of the)
United States, *et al.*,)
12)
Respondents.)
13 _____)

14 Petitioner Zi Xiang Zhen, a native and citizen of the People’s Republic of China, filed a
15 pro se Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 on June 9, 2011, challenging
16 his continued immigration detention by the United States Immigration and Customs
17 Enforcement (“ICE”). (Dkt. No. 6.) Petitioner alleges that he was detained by ICE upon his
18 release from the Taft Correction Institution in Taft, California, on December 9, 2010. *Id.* at 3.
19 He argues that his continued detention longer than six months violates 8 U.S.C. § 1231(a)(6) as
20 interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and violates
21 substantive and procedural due process. *Id.* at 4-8. He requests that the Court issue a writ of
22 habeas corpus directing respondents to immediately release him from custody. *Id.* at 9.

01 On July 19, 2011, respondents filed a return and status report along with documentation
02 which indicates that petitioner was released from immigration detention on July 6, 2011, under
03 an Order of Supervision. (Dkt. No. 12, Ex. A.) Respondents assert that due to petitioner’s
04 release, the habeas petition is moot and should be dismissed for lack of subject matter
05 jurisdiction. *Id.*

06 “Article III of the Constitution limits federal ‘Judicial Power,’ that is, federal-court
07 jurisdiction, to ‘Cases’ and ‘Controversies.’” *U.S. Parole Comm’n v. Geraghty*, 445 U.S. 388,
08 395 (1980). For a federal court to have jurisdiction, “an actual controversy must exist at all
09 stages of the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th
10 Cir. 2002). “When a controversy no longer exists, the case is moot.” *Id.* “For a habeas
11 petition to continue to present a live controversy after the petitioner’s release . . . there must be
12 some remaining collateral consequence that may be redressed by success on the petition.” *See*
13 *Abdala v. Immigration and Naturalization Serv.*, 488 F.3d 1061, 1065 (9th Cir. 2007) (internal
14 quotation marks omitted).

15 Here, petitioner does not challenge his underlying removal order, but merely his
16 continued detention pending the execution of that order. His release, therefore, has arguably
17 resulted in the termination of any detention. Because no collateral consequences remain, and
18 there is no relief left to grant on his petition, the Court finds that petitioner’s habeas petition is
19 moot and should be dismissed. *See Abdala*, 488 F.3d at 1065 (holding that removal mooted
20 habeas challenge to length of detention); *see also Picrin-Peron v. Rison*, 930 F.2d 773, 776 (9th
21 Cir. 1991) (finding that because petitioner only requested release from custody and had been
22 released, the court could provide no further relief and the petition was properly dismissed).

01 A proposed Order accompanies this Report and Recommendation.

02 DATED this 20th day of July, 2011.

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05 Mary Alice Theiler
06 United States Magistrate Judge
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